

Offered to supply controlled drugs of Class C to another contrary to section 3(3)(a) of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974

[2021]GRC083

**ROYAL COURT  
FULL COURT**

**27 October 2021**

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:  
Stephen Murray Jones OBE, Claire Helen Le Pelley,  
Steven John Morris, Joanne Marie Wyatt, David John Robilliard,  
Marilyn Jasmine King, Tina Jane Le Poidevin, Heather Reed, Simon Ernest Bodkin.**

**THE LAW OFFICERS OF THE CROWN**

- v -

**RYAN DONALD HOCKEY**

**Advocate J D McVeigh appeared for the Crown  
Advocate S E Steel appeared for the Defendant**

**JUDGE OF THE ROYAL COURT:**

**Background**

Mr Hockey you have pleaded guilty to three Counts on one Indictment, all of which are that you offered to supply controlled drugs to another contrary to section 3(3)(a) of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, as amended. All three Counts concern Class C drugs. Count 1 relates to tramadol and occurred on around the 1 November 2020. Count 2 relates to temazepam and occurred on or around 9 November 2020 and Count 3 relates to gabapentin and occurred between the 6 November 2020 and the 4 December 2020. The maximum sentence for each Count is 14 years' imprisonment.

The facts are that on 5 December 2020, your home was searched and your Samsung mobile telephone was seized. You voluntarily provided officers with the pass code and messages were discovered which provide the evidence for all three Counts.

At interview, at times you exercised your right to silence but at other times, with one exception, you denied that the messages had come from you, stating that others had access to your phone, you disputed that the messages were about drugs and you denied selling any of your prescription medication.

You are a local man of 40 years of age, 39 at the time of the offences. You are not working for medical reasons. You live with your sister in social housing.

Your previous convictions span some 27 years and include convictions for theft and dishonesty offences and 6 drugs offences. Notably in 2012, you received a 2-year prison sentence for importing and possessing controlled drugs and handling stolen goods. You have served 12 sentences of imprisonment.

You have been on unconditional bail throughout these proceedings.

**Sentencing Considerations**

There are no specific sentencing guidelines for the supply or offering to supply Class C drugs. The penalty is the same for both offences. This Court has previously taken one-half of the sentencing guidelines applicable to offences involving the supply of Class A drugs, contained in the case of Richards. This was neither endorsed nor criticised in the case of Lamb. In the final analysis, the starting point is at the Court's discretion.

In your case, there is no quantifiable amount of drugs. The Court has to try to determine the level of offending from the messages during the period covered by each Count. It appears that the offers were of 100 gabapentin, some tramadol and some temazepam.

The Court is satisfied that the custody threshold in respect of your offending has been passed.

We take a starting point for all three counts of 18 months. Your previous record is an aggravating factor and that takes the starting point to 2 years.

### **Mitigation**

#### Plea

The Court must first consider the impact of your guilty pleas on sentence.

You entered your pleas early so we are able to give you considerable credit for them.

#### Mitigation

The Court has considered carefully the detailed Probation Report prepared in respect of you. The author has taken care to record and analyse your explanation for the offences.

We have also listened to the able submissions of your Advocate.

You have repeated your explanation, the one that you gave to the Probation Officer, through your Advocate, so we must decide what to make of it. You have said that, although you have offered to supply the various Class C drugs to other people, you did not have any drugs to complete the transactions and, with the exception of the swaps with your sister, you did not intend to complete the transactions because the purpose of your messages was to lure individuals who owed you money, to meet you so that you could make the money available to a family member in need.

There are three different sets of messages with a person called ES who we were told today is your sister. Those messages were on the 31 of October, 1 November and 9 of November. You told the Probation Officer that the tramadol and temazepam offences relate to her. The messages are clearly offers by you to supply those drugs. You said that your sister would have expected you to be able to get hold of tramadol because you would have been able to do so previously, but that you had no intention of obtaining or supplying the drug to her, despite the content of the messages. You are living with your sister so she would have been aware if you were no longer involved with the drug community as you claim.

You say further that her request to you for a temazepam is a mistake, because she should have been asking for a diazepam, as you and she were both on that prescription and would swap diazepam between you regularly. In the message of the 9 November you do not correct her mistake, but instead say that you can swap temazepam and gabapentin that she wants, for some DFS (dihydrocodeine) which you want.

You told the Probation Officer that the initial approach was made from people wanting drugs from you but this does not fit with the messages forming part of the outline where you are clearly offering drugs to others. For example, your messages on the 3 December 2020 to D&A and MM.

The Court is not impressed by the lies you told at interview and is concerned that you refuse to give consent for a list of your prescription medication to be obtained which would have corroborated your account or otherwise. The Court cannot accept your explanation. You have clearly not abandoned your ties with the drug community.

The offence is that of offering to supply a controlled drug. There is no need for the transaction to have been completed. The Court views your explanation as an attempt to reduce the seriousness of your offending.

That said, it has to be acknowledged that the evidence of the offending came from your phone and you did provide the passcode for which you are entitled to credit. There were no drugs found and no drug-related items. The evidence on your phone is of exchanges with limited persons on limited dates.

You have a long list of previous convictions, though we note that your last drug conviction was in November 2013, which cannot have been long after your release from prison after the 2012 sentence. In 2013 you received a suspended sentence of 21 days for a drug offence, which was subsequently activated when you committed more theft offences.

Although you have apologised today, you have shown no remorse for your offending and chose instead to put forward an incredible explanation for it and to maintain that your offences are not so serious as you were not going to supply the drugs or make any significant personal benefit.

We note carefully the information given in the offender assessment section of the probation report, your unhappy childhood, your long and difficult struggle with drug dependency since your mid-teens and the health issues from that period which you still have today.

You are currently signed off work because of your physical health issues but you are a person who has a passion for art and you have been able to use that skill for gainful employment.

You are assessed as having a high likelihood of re-offending which we must take into account.

We note that there is no request for a Drug Trafficking investigation.

## **Sentence**

The custody threshold has clearly been passed in your case. The Court has carefully considered alternatives to immediate custody but has concluded that immediate custody is the only appropriate sentence. In sentencing you we have taken into account the totality principle.

You have continued to be frustrated that you are appearing before the Court today because you are not accepting responsibility for your actions. That is not helpful. The reality is that any involvement with drugs other than taking those which have been prescribed to you alone is likely to bring you back before this Court. You should know that by now. The experienced Probation Officer assesses you as making the right noises about leading a more law abiding life but you will need to do more than make the right noises if this is to be your last appearance before this Court. She says that you have the skills to change and that you know how to get the support that you need. This is encouraging. It is up to you to cut all ties with your past life and focus instead on making a new one after your release.

Taking into account all the above and applying appropriate discounts, the sentences will be as follows:

- Count 1 - 1 year immediate custody.

- Count 2 - 1 year immediate custody, concurrent.
- Count 3 - 1 year immediate custody, concurrent.

This makes a total of 1 year immediate custody.

In accordance with section 1 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, upon release (or completion of any parole period if applicable), you will be subject to supervision by the Probation Service for a period equal to one-quarter of the total sentence, or the period you would have served had you not received remission, whichever is the shorter. If you fail to comply with the conditions of the supervision, you will be liable to further imprisonment, a fine, or both.

### **Forfeiture s3 Police Property and Forfeiture (Bailiwick of Guernsey) Law 2006 as amended**

The Crown's application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 in respect of the Samsung mobile phone is also granted. The Court notes that this has not been resisted. The Court is satisfied that this item was lawfully seized and that the analysis of it shows that it has been used for the purpose of committing or facilitating the commission of an offence. The Court has, as required by subsection (5), had regard to the value of the property (£30) and the likely financial and other effects on you of making the Order, before deciding to grant the Crown's application.

So, Mr Hockey, in summary, today you have been sentenced to a total term of imprisonment of 12 months from today and I have also ordered the Forfeiture and Destruction of the phone.

Would you please go with the officers.

**Catherine Maureen Fooks**  
**Judge of the Royal Court**

**27 October 2021**